

**Remarks**

Reconsideration and allowance of this application, as amended, are respectfully requested.

Before turning to the remarks in support of patentability, Applicants note that the Office Action is not clear as to whether the status is non-final or final. See, e.g., Office Action Summary box 2b ("non-final") and Office Action page 7 ("final"). Applicants' representative telephoned the U.S. Patent and Trademark Office ("USPTO") on May 18, 2009, but was advised that the examiner would be away until June 1. Applicants' representative then telephoned the examiner's supervisor, Ms. V. Kim, who attempted to contact the examiner. Ms. Kim could not contact the examiner, but said that she "think[s]" that the Action is final. Applicants' representative also telephoned the examiner on June 24, 2009, in further attempts to ascertain the status of the Office Action. The examiner telephoned Applicants' representative on June 24 to advise that "PAIR says the action is final."

Accordingly, this Amendment is being filed concurrently with a Request for Continued Examination ("RCE").

Applicants also note that the Office Action still indicates that the drawings are objected to by the examiner (Office Action Summary box 10b). Applicants submit that the aforementioned objection is in error. For all of the reasons presented in

Applicants' Amendment filed January 21, 2009, Applicants submit that the sole drawing figure is fully compliant. First, as explained in the aforementioned Amendment, the drawing figure does show, as required, every feature of the invention specified in the claims. Claim 3 depends from claim 1. The drawing figure depicts the claimed "flow control means" (i.e., the illustrated elements 36, 38, and 42). See, e.g., Applicants' disclosure at specification page 6, the paragraph beginning with "[v]alve means, typically consisting of hose clamps."

Second, as also explained in the aforementioned Amendment, the drawing figure fully complies with the provisions of 37 CFR § 1.84(u)(1). *No legend is allowed* because § 1.84(u)(1) requires that "[w]here only a single view is used in an application to illustrate the claimed invention, it must not be numbered and the abbreviation 'FIG.' *must not appear*" (emphasis added). Accordingly, correction of the Office Action Summary in the next communication from the USPTO is respectfully requested.

Turning to the present Amendment, the written description portion of the specification and claim 1 have been amended. Claims 1 and 3-20 remain pending in the application, with claims 12-19 withdrawn from consideration as being directed to a non-elected invention. Claims 1 and 12 are independent. The objections and rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein. No new matter has been introduced through the foregoing amendments.

The written description portion of the specification has been amended as required by the examiner. Claim 1 has been amended to even more specifically define the leukocyte filter feature of this invention. Entry of each of the amendments is respectfully requested.

35 U.S.C. § 102(b) - Stewart

Claims 1, 3, 4, 7, and 9-11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,128,048 to Stewart et al. (hereinafter "Stewart"). The examiner asserts in pertinent part that "[t]he leukocyte filter of Stewart et al is capable of filtering PRP to remove leukocytes" (Office Action page 4).

The rejection of claims 1, 3, 4, 7, and 9-11 under § 102(b) based on Stewart is respectfully deemed to be obviated. For at least all of the reasons presented in Applicants' Amendment filed January 21, 2009, and for the following reasons, the disclosure of Stewart does not anticipate Applicants' presently claimed invention.

As indicated above, claim 1 has been amended to even more specifically define the leukocyte filter feature of Applicants' invention. Stewart's system is structurally and functionally different from Applicants' presently claimed device for separating blood into blood components. Instant claim 1 defines an embodiment of the invention in which "said leukocyte filter [is] configured to

filter leukocytes and to allow platelets to pass therethrough so as to enable said first satellite container to receive from said collecting container a leukocyte depleted *platelet rich plasma* component (PRP) and to enable said second satellite container to receive from said collecting container a leukocyte depleted *packed red cells* component (PRC)." Stewart fails to teach this structural and functional feature of Applicants' claimed device.

Applicants respectfully submit that the examiner's continued reliance upon the Stewart reference is misplaced. The examiner's new assertion that "[t]he leukocyte filter of Stewart et al is capable of filtering PRP to remove leukocytes" (Office Action page 4) is simply incorrect. There is no such disclosure in Stewart. As explained in Applicants' Amendment of January 21, 2009, Stewart teaches that "the assembly 14 is intended to remove white blood cells (*and preferably also platelets*) from the red blood cells prior to storage" (column 5, lines 23-25) (emphasis added). Accordingly, Stewart's "separation device 36 includes a housing 42 containing a conventional filtration medium 44 suited for the removal of white blood cells *and platelets* from red blood cells" (column 5, lines 25-28). That, however, is not Applicants' claimed invention. Therefore, Stewart fails to meet Applicants' presently claimed feature of a "leukocyte filter being configured to filter leukocytes and to allow platelets to pass therethrough."

Applicants also submit that the examiner's assertion that the claim language represents an "intended use" of the filter reflects an unreasonably narrow interpretation of both the claim language and the relevant legal authority. Clearly, Applicants' specification defines the filter as being a "leukocyte filter." At specification page 22, Applicants even disclose that the filter device 22 has porous elements "specifically adapted for leukocyte removal." Applicants submit that the general structure and operating principles of a leukocyte filter are well known to one skilled in the relevant art.

Furthermore, Applicants' specification also clearly defines the object of the claimed device, i.e., "to remove *leukocytes* from the generated components" (specification page 1, second paragraph). Therefore, by virtue of *removing leukocytes*, the filter provides the "leukocyte depleted platelet rich plasma component (PRP)" and the "leukocyte depleted packed red cells component (PRC)."

Since Stewart does not meet each feature of the claimed invention, Stewart does not anticipate the invention defined by Applicants' instant claim 1. Claims 3, 4, 7, and 9-11 are allowable because they depend, either directly or indirectly, from claim 1, and for the subject matter recited therein.

35 U.S.C. § 103(a)

Since Stewart is the primary reference in each of the rejections under § 103(a) -- claims 5, 6, and 20 as being unpatentable over Stewart in view of WO 03/063930 to Corbin et al. ("Corbin"), and claim 8 as being unpatentable over Stewart in view of U.S. Patent No. 7,264,608 to Bischof et al. ("Bischof") -- each of these rejections is also respectfully deemed to be obviated. The combined disclosures of the cited references would not have rendered obvious Applicants' presently claimed invention because the disclosures of the additional references do not rectify any of the above-described deficiencies of Stewart.

Furthermore, there is simply no teaching in any of the references that would have led one to select the references and combine them in a way that would produce the invention defined by any of Applicants' presently pending claims.

Therefore, the various combinations of references would not have rendered obvious the invention defined by any of Applicants' presently pending claims.


In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an

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interview might expedite prosecution, the examiner is invited to  
contact the undersigned.

Respectfully submitted,

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